

# Financing the Project

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# Financing the Project

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One of the biggest hurdle to any construction project is securing the funding. This chapter will consist of information concerning who should be involved in financing the project, the importance of having an accurate estimate of the project cost, financing options that are available for school construction projects, the length of time it takes to get a financial plan in place and issuing bonds.

## I. HIRING THE FINANCE TEAM

The first thing a school district should do when looking into financing options, is to gather a team that will assist the district in financing its construction project(s).

A well-structured finance team should consist of the school district, an underwriter and/or a financial advisor, a bond counsel, a bond registrar and/or a paying agent. (Diagram on next page). Below is an explanation of what function each finance team member will serve.

### **School District**

The entity under whose name the bonds are issued. It is worthy of mention that the issuer of the bonds may not always be the entity liable for the bonds. For example, school districts may issue bonds through other State entities.

### **Bond Counsel**

An outside counsel to the issuer who gives an opinion regarding (1) the tax exemption of the interest on the bonds, and (2) the validity of the bond issue. A district's regular local counsel may need to provide certain opinions to bond counsel or may otherwise be involved in the financing.

### **Underwriter**

The manager for the transaction, whose responsibilities include working directly with the school district to develop the financial and marketing plan, prepare working documents and sell the bonds. The underwriter may provide similar services to the financial advisor. The underwriter may hire an attorney to assist in documentation, preparation of the official statement and disclosure.

### **Financial Advisor**

A consultant who advises the issuer on matters pertaining to a new bond issue, such as structure, bond ratings, credit enhancements, timing, marketing, and appropriateness of pricing terms.

### **Bond Registrar and/or Paying Agent**

The party that handles payments of interest and principal to the bondholders.

### **Hiring the Right Team**

There are many quality finance teams available to a school district. The key is to establish a process which enables the district and its board to research various alternatives, assess strengths and weaknesses and make its selection based on the district's individual needs.

Before beginning the process of putting together a finance team, the district may want to consider consulting its local attorney. The local attorney can assist the district by identifying any particular requirements that may exist. The Illinois School Code does not require competitive bidding for professional services used in relation to a school bond financing. School districts will find that they have great latitude in determining the process by which a finance team is assembled. If the district has a finance team that it has been working successfully with in the past, then the district may want to continue working with that team. The goal of this section is to give the district and its board several ideas for selecting a finance team if one is not already in place.

The first step in the process should be to develop a request for proposal (RFP) to be mailed to bond underwriting and/or financial advisory firms that the district would want to consider and interview. Selecting a qualified finance team through a formal selection process will result in time and cost savings to the district. It will require that an appropriate RFP document be created. Some suggestions are made in this section that should simplify the process. Even if the district has an existing RFP document that has been used within the last year or two, the district should review the relevancy of such document to the new project and make any appropriate changes.

Sample RFP documents can be obtained from many good sources. Districts can ask other school districts for samples of what they have recently used. Any information they can provide should prove to be useful. The district should not hesitate to ask for opinions from other districts that are similar in size and demographic makeup. Other good sources of information can also include school district organizations such as Illinois Association of School Business Officials (IASBO), Illinois Association of School Administrators (IASA ) and Illinois Association of School Boards (IASB).

At a minimum, the RFP should fully describe the district's project and specific needs. It should clearly define the scope of the services needed, listing what the district expects from a bond underwriting / financial advisory firm and asking that the recipient respond to the proposal within a specified period of time. A definitive time frame for project completion should be included. The district should be clear in asking how much it will have to pay for underwriting and advisory services. Typically, these costs are incurred only after a bond issue is completed and are paid out of bond proceeds. If these professional services are available to the district at no up-front cost, most often it will make the most sense to have the finance team in place early on. It is strongly sug-

gested that the district ask for and check references on underwriters / financial advisors.

**Other Considerations for a District**

- Knowing who the individuals are that will be working on the district’s financing. Is it one or two individuals or will there be an expanded team to support you?
- Will the company be able to devote primary attention to your project or is it spread thinly working with a number of school districts in multiple locations?
- What is their experience in working with Illinois school districts on school building bond issues?
- How can the district be assured that it is receiving a fair interest rate?

Once the RFPs are returned and reviewed by the district, a decision should be made quickly as to which firms the district would like to invite for a face-to-face meeting. At this meeting, the district will have the opportunity to have questions answered and see and hear directly from these firms. Once this step in the process is completed, the district should have enough information to decide which firm or firms it would like on the finance team. If the district’s issue is large enough and if there are two firms that offer the district skills in complementary areas, the district may wish to consider a finance team comprised of multiple firms.

**What is the Difference Between Hiring an Underwriter and Hiring a Financial Advisor?**

Once the district has determined that a bond issue will be required, one of the first decisions a school district must make is the method of bond sale. The method of sale will determine if the district will need a financial advisor, an underwriter or both. Neither method offers the best answer for all occasions. A systematic evaluation of the two methods is required.

**Competitive Sale**

In a competitive sale, potential purchasers of the bonds are notified in advance of the offering date and of the particulars regarding the transaction, as well as the exact date of bid solicitation. On that certain date, the district and its financial advisor receive bids for the purchase of the bonds. The qualified bidder providing the lowest Net Interest Cost (NIC) is awarded the purchase of the bonds, unless the district chooses to reject all bids. The purchaser of the bonds then receives its “profit” from the remarketing and reselling of the bonds.

**Negotiated Sale**

A negotiated sale is managed on behalf of the district by an investment-banking firm. The firm will premarket the issue to retail and institutional investors to assess demand and to educate investors regarding the transaction, the credit quality of the school district and any specific bond structures that may exist. A negotiated sale is not required to transpire on a certain date; therefore a district is provided the opportunity to minimize its interest cost by taking advantage of low interest rate periods. An underwriter on a negotiated transaction receives its compensation by buying the bonds from the district at a discount or by including such compensation and other fees in the interest rate.

The chart that follows illustrates a few additional differences:

	<b><u>Negotiated</u></b>	<b><u>Competitive</u></b>
<b>Bond Structure:</b>	<i>Tailored</i>	<i>Traditional</i>
<b>Timing of Sale:</b>	<i>Flexible</i>	<i>Inflexible, but can reject bids</i>
<b>Service:</b>	<i>Time of appointment and on-going</i>	<i>Bond placement only</i>
<b>When Best Utilized:</b>	<i>Volatile market, unusual structure</i>	<i>Stable market, generic structure</i>
<b>Local Sales &amp; Placement:</b>	<i>Yes</i>	<i>No</i>

Once the district has determined the type of sale to use, it will be able to determine the professionals that should be hired. Both processes (negotiated / competitive) may include an underwriter. A district also may choose to hire a financial advisor for a negotiated sale. If a financial advisor is retained, the advisor's fee can be included in the costs of issuance.

## II. PROJECT DEFINITION

Once the finance team is in place, the next step will be to define the project. Capital projects generally include construction of new facilities, alteration and repair of existing facilities and the purchase of equipment that is durable in nature. Section III of this Chapter will list the various types of financing options that can be used for capital projects. Before deciding on which type(s) of financing options may be right for a district, the project must be clearly defined.

- What is to be financed? It is vital that the district consult with architectural and/or engineering professionals to determine the needs of the district and the estimated costs of the possible solutions. If this has not yet been done, refer to Chapter One.
- Determine the total project costs with your architect and/or engineer. Do not rely on rough estimates or project costs from other district funds. Construction costs vary from area to area.
- Determine the amount of any state construction grant that may be available. Often the district's architect and/or engineers will assist in filling out the necessary applications. For further information on the State School Construction Grant process, see Chapter Six.
- Determine the amount to be financed. A district may decide to finance the entire project cost or only the amount needed after any grant(s) are received. The district's financial advisor and/or underwriter can be of great assistance when analyzing the appropriate amount of the financing. Some of the factors to consider when making this determination are:

- If the project requires voter approval, how will the dollar amount on the ballot affect the probable success of the referendum?
  - When will the money be needed for construction versus when will grant funds be received?
  - What arbitrage-rebate restrictions, if any, will the district be subject to?
  - How will the size affect the marketability and interest rates on the bonds?
  - Will the bonds be eligible for bank qualification?
- Districts should remember that when building new facilities, they should be certain to address whether or not additional funds will be required to staff and operate those facilities and what the source of those additional funds will be. The district should carefully consider the timing of when operational fund increases may be needed to provide staffing and services to newly built schools. A district's finance team can be helpful in assisting with this determination.

### III. FINANCING OPTIONS

#### **Borrowing Alternatives or How To Finance School Construction Projects**

The purpose of this section is to summarize the borrowing alternatives for capital projects available to Illinois school districts. Under current law, such borrowings are governed by the provisions of the School Code of the State of Illinois, as amended (the School Code), the Local Government Debt Reform Act of the State of Illinois, as amended (the Debt Reform Act), the Property Tax Extension Limitation Law of the State of Illinois, as amended (the Extension Limitation Law), the Bond Issue Notification Act of the State of Illinois, as amended (BINA), and the Internal Revenue Code of 1986, as amended (the Tax Code), and the arbitrage and rebate regulations promulgated thereunder (the Federal Regulations). Compliance with the School Code, the Debt Reform Act, the Extension Limitation Law, and BINA is necessary for the borrowing to be valid and legally binding, and compliance with the Tax Code and the Federal Regulations is necessary for the interest on the borrowing to be exempt from federal income taxation.

Any of the following borrowing alternatives (with the exception of leases and lease certificates) may be used to provide the district's "local share" when applying for and obtaining a school construction grant.

#### **Alternate Bonds**

May be issued pursuant to the Debt Reform Act and the School Code whenever a school district has a lawfully available revenue source sufficient to provide, in each year, an amount not less than 1.25 times debt service on any outstanding alternate bonds payable from that revenue source and the alternate bonds to be issued. The revenue source must be pledged to the payment of the alternate bonds and the school board must covenant to provide for, collect, and apply the revenue source to the payment of the bonds and an additional 0.25 times debt service. Alternate bonds are also payable from a full faith and credit tax levy. The intent is that the revenue source will be sufficient to pay the bonds so that taxes need not be extended for their payment. Alternate bonds must be issued for a lawful corporate purpose. They do not count

against the district's debt limit unless taxes, other than a designated revenue source, are extended to pay them (see the end of this section for information on debt limits). Alternate bonds are subject to a backdoor referendum and require a BINA hearing (see the end of this section for information on BINA hearings).

### **Building Bonds**

Must be approved by direct referendum held at a regularly scheduled election. These bonds are issued to pay the cost of acquiring school sites and building, equipping, altering, repairing, and reconstructing new and existing school buildings and additions. The bonds are secured by the levy of a direct annual tax on all taxable property in the school district without limitation as to rate or amount. Building bonds count against a district's debt limit and do not require a BINA hearing.

### **Fire Prevention and Safety, Environmental Protection, School Security, and Energy Conservation Bonds**

Are issued to alter and repair existing school buildings and equipment for fire prevention and safety purposes, for the protection and safety of the environment, for energy conservation, and for school security purposes. These bonds may be issued to replace all or a portion of an existing building, so long as the particular requirements concerning such replacement are met. The architect's or engineer's estimate of cost of the construction must be approved by the Regional and State Superintendents, and the work must be done pursuant to an order issued by the Regional Superintendent. The School Code prohibits beginning work on health/life safety projects until the approvals from the Regional and State Superintendents have been obtained. Health/life safety funds may not be used for buildings that do not house students. Projects for school sidewalks, playgrounds, parking lots, or bus turnarounds require the school board to make certain findings following a properly noticed public hearing. The bonds are not subject to direct or backdoor referendum. The bonds are secured by the levy of a direct annual tax on all the taxable property in the school district without limitation as to rate or amount. For a district subject to the Extension Limitation Law, such bonds may be issued as limited bonds (see the end of this section for information on limited bonds). A BINA hearing is required. These bonds count against a district's debt limit.

### **Funding Bonds**

Are issued to pay claims against a district that cannot be met from current revenue. Funding bonds are subject to a backdoor referendum. Before the petition period for the backdoor referendum may begin, the district must adopt a resolution identifying and setting forth the claims which will be paid with the proceeds of the bonds. A BINA hearing is required. For a district subject to the Extension Limitation Law, the bonds may be issued as limited bonds. These bonds may be issued in excess of a district's debt limit, but once issued, count against a district's debt limit.

### **Guaranteed Energy Savings Contracts**

Are authorized, after a proposal and sealed bidding process, to implement energy conservation measures. Such contracts between a district and a qualified provider of the energy conservation measures must include a written guarantee from the qualified provider that either the energy or operational cost savings, or both, resulting from the project will meet or exceed, within 10 years, the cost of the energy conservation measures. The qualified provider is required to reimburse the school district for any shortfall of guaranteed energy savings projected in the contract. School districts may also enter

into an installment payment contract or lease purchase agreement (not exceeding 10 years) for the purchase and installation of the energy conservation measures. To evidence such indebtedness, a school district may issue debt certificates without referendum approval. The school district is required to include in its annual budget any amounts payable under the guaranteed energy savings contract and related certificates. A BINA hearing is not required. Guaranteed energy savings installment payment contracts or lease purchase agreements count against a district's debt limit.

### **Installment Contracts**

Are authorized by Section 17 (b) of the Debt Reform Act for the purchase of real or personal property. The maximum term of an installment contract is 20 years. School districts are authorized to issue debt certificates evidencing the indebtedness incurred under an installment contract. A school district's payment obligation under an installment contract and on such certificates constitutes a binding and enforceable promise to pay the amount borrowed plus the interest thereon. The school district will be expected to agree to annually budget amounts sufficient to pay the principal and interest on the installment contract and the certificates. There is no separate levy available to make such payments. Under an installment contract, a school district takes title to the project being financed as construction progresses. Therefore, an installment contract financing will be most useful when referendum approval is not otherwise required under Section 10-22.36 of the School Code to enable the district to construct the project. Installment contracts are not subject to referendum and no BINA hearing is required. Installment contracts count against a district's debt limit.

Leases of buildings, rooms, grounds, and appurtenances to be used by a district for school or school administration purposes may be entered into for a term not exceeding 99 years under Section 10-22.12 of the School Code. Appurtenances include those items of property related to, or that are a part of, some school buildings, rooms, or grounds and do not have a function other than with respect to such school facilities. A vote of the full membership of the school board is required before the board may make or renew any such lease for a term longer than 10 years. In addition, although the School Code permits such leases to extend for a period not exceeding 99 years, Section 8 of Article VII of the 1970 Illinois Constitution prohibits school districts from incurring debt payable from ad valorem property tax receipts in excess of 40 years. Therefore, the debt under any such lease (i.e., the principal amount of the borrowing and interest thereon) must be repaid within 40 years. Depending on the type of improvement being leased, a school district may have to obtain referendum approval before it can acquire title to the improvements at the end of the lease term.

### **Leases**

Of real or personal property, including a school site, building, or equipment may be entered into for a term not exceeding 20 years under Section 17 (b) of the Debt Reform Act. A school district is authorized to issue debt certificates evidencing the indebtedness incurred under the lease. As with installment contracts, a school district's payment obligation under a lease is a binding and enforceable promise to pay, for which the school district agrees to budget sufficient funds on an annual basis. Leases do not require a BINA hearing. Leases count against a district's debt limit.

In addition, Section 17-2.2c of the School Code authorizes districts to levy an annual tax, in addition to any other taxes of the district, not to exceed 0.05 percent of the

equalized assessed valuation of the district for the purpose of leasing educational facilities, including any building, rooms, grounds, and appurtenances to be used for school or school administration purposes. The 0.05 percent tax rate may be increased to 0.10 percent with referendum approval. A school district subject to the Extension Limitation Law is, however, subject to the restrictions of that law and often unable to access any new funds under Section 17-2.2c without referendum approval.

To the extent that the leased property constitutes a school building (rather than additions or improvements thereto), the ability of a school district to take title to the building at the end of the lease term is restricted by Section 10-22.36 of the School Code, which provides that a school district may build, purchase, or move a building for school purposes only upon the approval of a majority of the voters on the proposition at a referendum held for such purpose. Thus, under current law, if a school district wishes to acquire or construct a school building, it must first obtain the approval of a majority of the voters at a referendum. The referendum must occur at some point prior to the district's taking title to the facility at the end of the lease term and does not have to occur prior to the district's entering into the lease.

### **Working Cash Fund Bonds**

Are issued for the purpose of creating or increasing a working cash fund. The principal amount of working cash fund bonds to be issued cannot exceed 85 percent of the taxes permitted to be levied for educational purposes for the current year plus 85 percent of the last known personal property replacement tax entitlement minus the greater of (1) the principal amount of the district's working cash fund bonds outstanding or (2) the amount to the credit of the district's working cash fund. Issuance of these bonds is subject to a backdoor referendum. A BINA hearing is required. Working cash fund bonds may be issued in excess of a district's debt limit, but, once issued, count against a district's debt limit.

The working cash fund may be funded by the issuance of bonds or by the levy of an annual tax not to exceed .05 percent, or by both, if the aggregate amount to the credit of the working cash fund will not exceed the maximum amount permitted in the fund. Moneys in the working cash fund are not to be regarded as current assets available for school purposes and are not to be used by the school board in any manner other than to provide moneys with which to meet ordinary and necessary disbursements for salaries and other school purposes. The moneys may be loaned to any fund for which taxes are levied in order to avoid the issuance of tax anticipation warrants and notes.

### **Limited Bonds**

The Extension Limitation Law permits capped taxing districts to issue limited bonds (also known as "limited tax bonds") in accordance with Section 15.01 of the Debt Reform Act, which has the effect of allowing taxing districts that are subject to the Extension Limitation Law to issue nonreferendum limited bonds in lieu of general obligation bonds that otherwise would be subject to referendum.

Limited bonds are general obligation bonds, payable from the taxing district's debt service extension base (DSEB) and any other funds of the taxing district lawfully available therefor. The DSEB of a taxing district is the portion of the taxing district's property tax extension for the payment of principal and interest on the district's nonreferendum bonds, not including alternate bonds or bonds issued to refund or to

continue to refund bonds that were initially issued pursuant to referendum, for the levy year in which the referendum was held making the Limitation Law applicable to the taxing district or, for districts located in Cook or the collar counties, for the levy year 1994. The source of payment from a separate tax levy in each year is limited to the amount of the available DSEB. The rate at which such tax is extended, however, is not limited. A taxing district with no DSEB or a small DSEB is authorized to create or increase its DSEB pursuant to referendum. Limited bonds can only be issued in lieu of bonds otherwise authorized by applicable law and are subject to all of the same debt limits, procedural requirements and any other limitations applicable to such bonds.

## **Debt Limits**

A school district's debt limit is a ceiling on the amount of certain types of funding that any particular school district may undertake. The debt limit for elementary and high school districts is 6.9 percent of the equalized assessed valuation of the district. For unit school districts, the limit is 13.8 percent of the equalized assessed valuation of the district.

Alternate bonds and most types of revenue or tax anticipation warrants or notes (which are short-term cash-flow borrowing instruments not covered in this chapter) do not count against the debt limit of a district. However, bonds (other than alternate bonds), installment contracts, judgments, leases, and teachers' orders do count against the debt limit. Funding bonds and working cash fund bonds may be issued in excess of the debt limit, but, once issued, count against a district's debt limit.

The School Code includes numerous exceptions to the debt limit. In particular, a debt limit of 15 percent may be applicable when either of the following occur:

- Exploding Enrollment"--certain enrollment projections or increases exist, the Regional and State Superintendents concur with the school board's enrollment projections or increases, and a majority of the electors approve the bond issue.
- The school board determines that additional facilities are needed to provide a quality educational program and two-thirds of the electors approve the bond issue.

In addition, a district may issue referendum-approved school building bonds in excess of its debt limit as long as the school building bonds to be issued in excess of the district's debt limit do not exceed the amount certified by the Capital Development Board (CDB) as the district's "local share" and certain other requirements are met.

## **BINA Hearings**

BINA requires school boards proposing to sell non-referendum general obligation bonds or limited bonds (other than refunding bonds) to hold at least one public hearing concerning the district's intent to sell the bonds. The school board may adopt a resolution or the president of the school board may execute an order calling the public hearing. The secretary of the school board must publish notice of the hearing at least once in a newspaper of circulation in the district not less than seven and not more than 30 days before the date of the hearing and must post notice of the hearing at the principal office of the school board at least 48 hours before the hearing. Care must be taken to ensure that the notice appears above the name of the secretary of the school board. At the hearing, the school board must explain the reasons for the proposed bond issue and permit persons to present written or

oral testimony. The school board must then wait at least seven days following the hearing before adopting the resolution providing for the sale of the bonds.

#### **IV. TIME LINE**

In order to successfully finance a school construction project, a district must allot the proper amount of time to ensure that all major milestones associated with a project are met. This begins with the selection of a design team and continues through the investment of bond proceeds from a bond sale. Districts should be aware of how far in advance they need to begin planning their projects especially if critical deadlines are associated with the completion of the project(s). Establishing a realistic time line will help ensure that districts do not make promises to their community that cannot be met.

Exhibit 1 and Exhibit 2, located on the following pages, are examples of two different time lines.

Exhibit 1 is an example of a time line associated with a project that would require a referendum approved bond issue. The time line begins in Month 1 with the selection of a design team and a finance team and ends with the bond sale and closing 12 months later. This time line also includes submission of a school construction grant application (if not applicable to your specific situation, back out that time from the time line). As one can readily see, the process takes several months and must be planned out well in advance in order to predict the project completion date and plan accordingly.

Exhibit 2 reflects a time line for a nonreferendum bond issue. This time line begins in Month 1 with the selection of a design team and a finance team and ends 8 months with the bond sale and closing. Although this time line is shorter than a referendum bond issue time line, it still takes some time and must be planned out in advance in order to predict the project completion date.

# EXAMPLE OF TIME LINE FOR A REFERENDUM BOND ISSUE



# EXAMPLE OF TIME LINE FOR A NON-REFERENDUM BOND ISSUE



### Other Things to Know Regarding the Time Line

- Referendum or nonreferendum bonds once authorized may be issued all at once or in multiple issues over a period of time.
- Referendum bonds must be issued within five (5) years from the date of the referendum.
- Nonreferendum bonds subject to a backdoor petition period must be issued within three (3) years from the end of the petition period.
- The construction grant funds are not received all at once. If the district's grant index is greater than 50 percent, the grant proceeds will be received as follows:
  - 45 percent at the time the construction contracts are awarded.
  - 45 percent at 50 percent project completion.
  - 10 percent at substantial completion.

If the district's grant index is less than 50 percent, the grant proceeds will be received as follows:

- 30 percent at the time the construction contracts are awarded.
  - 30 percent at 50 percent project completion.
  - 30 percent at 75 percent project completion.
  - 10 percent at substantial completion.
- Under state laws the district has two years from the date of the executed intergovernmental agreement to obligate (not spend) the state construction grant.

## V. ISSUING BONDS

Once a determination is made to use bonds to finance a school construction project, the district and its finance team will begin the process of issuing the bonds. This process includes a number of steps, several of which are identified on the preceding time line in section IV.

A district and its finance team will begin the process of issuing bonds depending upon a number of factors that are important to the district. In the event that voter approval is required to issue bonds, the district must first successfully pass a referendum.

Currently in Illinois, voter referendums are held according to the following schedule - during even numbered years (2000, 2002, 2004, e.g.), the district will have two opportunities to propose a ballot question to its voters. The first opportunity will be in March and a second opportunity will be in November. In odd numbered years (2001, 2003, 2005), the district will generally have only one opportunity to propose a ballot question to its voters, which is in April.

In order to receive a Construction Grant, a school district must be "entitled" (or "deemed eligible") by the Illinois State Board of Education (ISBE). The Capital Development Board (CDB), will not begin the process of reviewing a Construction Grant application until it has received a copy of the entitlement letter from ISBE. The district must

have the entitlement from ISBE prior to a referendum to maintain eligibility in the Construction Grant program.

When there is no voter referendum required, a district can begin issuing bonds at any time. The district's needs should be paramount in making the decision of when to issue and how much to issue. Although there are a number of factors to consider, one of the most important criteria for a district should be the construction time line. The construction time line will help to establish when the district will need money. With this information, the district and its finance team can create the appropriate time line within which to issue the bonds. Other factors that the district and the finance team will take into consideration include: the effects of investing money in the Site and Construction Fund; the impact of federal tax issues such as arbitrage and rebate; the effect of general investor market conditions on interest rates; public perception; and, the timing of the Bond and Interest Fund levy increases in relation to the district's anticipated equalized assessed valuation.

Before the district issues bonds, there will be a number of steps and responsibilities for various individuals. Listed below are several of these:

### **District Responsibilities**

- Decides on appropriate structure and sets up a preliminary timetable with the finance team. (The time table would give approximate dates for each step of sale process.)
- Selects a Bond Registrar and/or Paying Agent.
- Adopts resolution setting BINA Hearing (if applicable).
- Publishes any necessary notices (i.e., BINA Hearing Notices, Intent to Issue Bonds).
- Completes Petition Period (if applicable).
- Gives notice of and holds BINA Hearing (if applicable).
- Provides necessary information to underwriter / financial advisor for Official Statement. This information will generally consist of at least three years audited financial statements, current budgets, various trend information including assessed valuations, and student enrollment. If the district has a financial situation that requires further commentary, the underwriter / financial advisor will work with the district on collecting the appropriate information.
- May have personal interview with the rating agencies. (The underwriter/financial advisor will help the district get ready for this and will accompany the district to the rating agency).
- May work with the underwriter/financial advisor to solicit bids for Municipal Bond Insurance, if required.
- Gives approval of Preliminary Official Statement.
- Establishes a "Sale Date" for the actual sale of bonds or determines the date for the adoption of a "Parameters Resolution." (A Parameters Resolution is a document that allows the Board of Education to give an advance approval of a Bond Sale provided that the Bond Sale occurs within the approved "parameters." Additionally, a Parameters Resolution establishes the signature authority for the approval of the Bond Sale and signing the necessary bond documents.)
- On the day of Bond Sale, gives its approval on the final debt service.
- Signs Bond Purchase Agreement / Resolution and returns to the underwriter / financial advisor.

- After the Bond Sale but prior to the Closing, Board Officers sign all necessary documents, including various Certificates. (This is described in greater detail below.)
- Returns documents and Certificates to underwriter / financial advisor.
- Determines where the bond proceeds will be deposited on the day of Closing. The deposit of bond proceeds is usually made into a Site and Construction Fund that the district will establish prior to the day of Closing.
- Sends wiring instructions to underwriter / financial advisor for Closing.

### **Underwriter / Financial Advisor's Responsibilities**

- District and other members of the finance team decide on an appropriate structure and set up a preliminary time table. (The time table would give approximate dates for each step of bond sale process.)
- Works with district to select a Bond Registrar and/or Paying Agent.
- Works with district and bond counsel to create any documentation required for nonreferendum transactions, including resolutions setting BINA Hearing (if applicable), any necessary notices (i.e., BINA Hearing Notices, Intent to Issue Bonds) etc.
- Provides any necessary assistance to district for referendum purposes, including documents necessary to file with the County Clerk evidencing the Board of Education's desire to place a question on a Ballot, tax rate impact charts, financial information regarding a potential bond sale, any assistance required by the Citizen's Committee etc.
- Collects and analyzes financial information in order to prepare the (Preliminary) Official Statement. This includes collecting information from the County Clerk regarding the district's tax base, collection history, Equalized Assessed Valuation, largest taxpayers, largest employers, current and maximum tax rates, etc.
- Assists the district in preparing for any visits to or information going to the various rating agencies. An underwriter / financial advisor often work with the district and prepare any presentations to the rating agencies.
- Solicits bids on behalf of the district for Municipal Bond Insurance, if applicable.
- Prepares and prints a Preliminary Official Statement which is sent to the district and other members of the finance team for review and approval.
- Works with the district and the finance team to establish a sale date.
- If required, provides information to the district's bond counsel for the preparation of the Bond Resolution / Parameters Resolution.
- Advises the district and the finance team about market conditions to determine the most appropriate day to issue the bonds.
- On the day of the "Sale," forwards information to the district regarding the final structure of the transaction and the final sale information.
- Once the district approves the final sale information, sends final sale information to the underwriter's counsel and the district's bond counsel.
- Prepares the Bond Purchase Agreement / Resolution, signs it and sends it to the district for signature.
- Reviews and forwards final bond documentation to the district. Can help with the completion of all Certificates that the district is required to sign.
- Handles all necessary filing of Certificates with the County Clerk.
- Provides a final review of all Certificates and forwards the Certificates to bond counsel.

- Checks with bond counsel to be sure that everything is ready for the Closing.
- Prepares a Closing Memorandum which identifies the amount of the bond proceeds going to the district, what expenses are to be paid on behalf of the district which were incurred during the preparation and sale of the bonds, and where the proceeds are to be deposited.
- Wires money on day of Closing.

### **Bond Counsel Responsibilities**

- Works with the district and the finance team in establishing an appropriate structure for the bonds.
- Based on information supplied to them from the district and the underwriter / financial advisor, drafts documents and proceedings including those required for the BINA Hearings, Bond Resolutions or Parameters Resolution.
- Reviews final numbers and tax levies to assure appropriateness.
- Prepares all bond documents and certificates.
- Prepares typewritten Bonds.
- Reviews and approves all signed and filed Certificates.
- Sends necessary documents to the Bond Registrar.
- Reviews Closing Memorandum prepared by underwriter / financial advisor to ensure accuracy.
- Handles Closing with various parties necessary to evidence the transfer of bond proceeds and the ownership of the Bonds by necessary parties.
- Releases approving legal opinion.
- Completes a Bond Transcript that is distributed to the district and other members of the financial team. The Bond Transcript becomes the official document source for the bond issue.

## **VI. POST CLOSING AND OTHER THINGS DISTRICTS MIGHT NEED TO KNOW**

After a school district issues bonds, there are number of items which require continued follow-up by the district and possibly, its finance team. As with all things, consulting bond counsel, underwriters and/or financial advisors if questions arise is strongly encouraged.

- Investments of grant proceeds and bond proceeds must conform to the requirements of the Public Funds Investment Act of the State of Illinois, as amended.
- Section 10-22.44 of the School Code permits interest earnings on investments of grant proceeds and school building bond proceeds to be transferred to the respective fund of the district most in need of the interest earnings, as determined by the school board, unless the interest has been earmarked or restricted by the school board for a designated purpose. This Section does not apply to interest on any funds for life safety purposes, which can only be used for life safety or to abate taxes levied to pay life safety bonds.
- Proceeds of a school building bond issue should be deposited by a school district into its Site and Construction / Capital Improvement Fund. Grant proceeds may also be deposited in that Fund, but probably should not be

commingled with the bond proceeds. A school district should follow standard accounting procedures in tracking the deposit and investment of bond proceeds and grant proceeds.

- Grant proceeds remaining on deposit in the Site and Construction / Capital Improvement Fund after a project has been completed, should be transferred to the district's Bond and Interest Fund and used to abate taxes levied to pay the principal of and interest on the district's outstanding bonds.
- Section 10-22.14 of the School Code permits moneys remaining on hand from a school building bond issue (not including life safety bonds), to be transferred to the district's Operations and Maintenance Fund when the purposes for which the bonds were issued have been accomplished and paid for in full.
- If a school district issues bonds to fund the entire cost of a school building project and subsequently receives grant proceeds to pay a portion of the cost of the project, the district will probably be required to yield-restrict the investment of the grant proceeds.
- A school district that issues in any calendar year (1) more than \$5,000,000 of tax-exempt obligations or (2) more than \$10,000,000 of tax-exempt obligations if at least \$5,000,000 of the \$10,000,000 financed construction expenditures for public school facilities, may have to rebate to the federal government its arbitrage profits derived from the investment of the bond proceeds, unless the district has spent the bond proceeds in accordance with certain spend-down exceptions. There is an eighteen-month spend-down exception and a two year spend-down exception for construction projects. Certain minimum amounts must be expended every six months to qualify for either of these exceptions.
- Under current rules, CDB will allow a school district to receive grant proceeds to pay for a portion of a building project even if the site on which the project will be constructed is subject to a long-term lease. In such case, the lease of the site must be for a long period (e.g., 99 years), but can include an option to purchase the site on an earlier date.
- Section 10-22.36 of the School Code requires a school district to obtain referendum approval for the construction of a new building even if the new construction will not be paid for with school building bonds. Referendum approval is not required for the construction of building additions or for site acquisition.
- School districts may provide their local share for a school construction project grant through the issuance of working cash fund bonds. Districts may then consider abating their Working Cash Fund to the Operations and Maintenance Fund in order to pay for construction costs.
- One of the Bond Sale documents a district may be required to sign is a Continuing Disclosure Undertaking. This document states that the district will provide updated financial information on an annual basis to several entities. These entities are called NRMSIRs (National Registered Municipal Securities Information Repositories). It is the district's responsibility to provide this information. Some underwriters / financial advisors will give their clients assistance as needed in the collection of necessary data to be supplied. Limited Disclosure (a school district has total debt under \$10 million) requires that the district make available its annual audit to any investor upon request. Full Disclosure (a school district has total debt over \$10 million) requires the district to forward a copy of the annual audit and certain additional financial information to the NRMSIRs. The extent of this information is determined by the district and its underwriter / financial advisor when they are drafting the Continuing Disclosure Undertaking document.